from the nature of the common design. *Regina* v. *Salmon*, 14 Cox C. C. 494; *Williams* v. *State*, 81 Ala. 1, 1 So. 179. But where either sudden impulse or preconceived purpose leads one of the number to perpetrate a crime not incidental to the common enterprise, he alone may be held therefor. *Rex* v. *Hawkins*, 3 C. & P. 392; *Rex* v. *Collison*, 4 C. & P. 565. And when, as in the principal case, a specific intent is an element of the crime, the instructions of the trial judge should require a finding that such intent existed in each defendant in order to establish his guilt. *Regina* v. *Bowen*, Car. & M. 149; *State* v. *Taylor*, 70 Vt. 1, 39 Atl. 447. Such requirements would not be satisfied in the principal case by proof that if the bullet had killed instead of wounding the gamekeeper the crime would have been murder, for malice aforethought may be inferred from a felonious course of action, without a positive intention to murder. *Regina* v. *Cruse*, 8 C. & P. 541. The specific intent necessary in the principal case is a positive intention to murder. The instructions given only require a realization that killing may probably ensue, which although sufficient to constitute malice aforethought is not intent to murder.

BAILMENTS — BAILOR AND BAILEE — CONVERSION BY BAILEE — DEVIATION FROM TERMS OF BAILMENT WITHOUT DAMAGE DURING DEVIATION. — The plaintiff, a liveryman, rented a horse and carriage to the defendant to drive from A. to B. The defendant in violation of the terms of the bailment drove beyond B. to C. After returning to B., the horse was killed without fault on the part of the defendant and not as a result of the deviation. *Held*, that the defendant is not liable in trover. *Daugherty* v. *Reveal*, 102 N. E. 381 (Ind. App. Ct.).

In general, to sustain an action for conversion, there must be an exercise of dominion over property inconsistent with, or in repudiation of, the true owner's rights. *Johnson* v. *Farr*, 60 N. H. 426. See *Spooner* v. *Holmes*, 102 Mass. 503. If this exercise of dominion be under an outright claim of ownership, it is of itself a conversion, even if made by mistake. *Hartford Ice Co.* v. *Greenwoods Co.*, 61 Conn. 166, 23 Atl. 91. But if it be the temporary use of another's property, special circumstances of the case should govern the decision. Where damage occurs during an intentional deviation, trover will lie. *Burnard* v. *Haggis*, 14 C. B. N. S. 45; *Perham* v. *Coney*, 117 Mass. 102. *Contra*, *Harvey* v. *Epes*, 12 Grat. 153. But if the deviation be unintentional, even if accompanied by damage, it would not be conversion. *Spooner* v. *Manchester*, 133 Mass. 270. Substantial damage, moreover, is often held an indispensable element in the plaintiff's cause. *Fouldes* v. *Willoughby*, 8 M. & W. 540; *Simmons* v. *Lillystone*, 8 Exch. 431. Thus have the courts taken a common-sense view of this subject, and accordingly it is submitted the principal case is correct in holding technical wrong unconnected with loss insufficient to impose full liability upon the defendant. This seems fairer than the old rule that mere deviation is conversion. *Wheelock* v. *Wheelwright*, 5 Mass. 104. And what modern authority there is, is in accord. *Farkas* v. *Powell*, 86 Ga. 800, 13 S. E. 200; *Doolittle* v. *Shaw*, 92 Ia. 348, 60 N. W. 621. See 8 HARV. L. REV. 280.

BANKRUPTCY — PARTNERSHIP CASES — POWER OF BANKRUPTCY COURT TO ADMINISTER NON-BANKRUPT PARTNER'S ESTATE. — The court of bankruptcy having adjudicated two partners and the bankrupt firm, the trustee petitions that as part of the administration of the firm bankruptcy, the court should be allowed to draw to itself for administration the estate of a third partner, not adjudicated. *Held*, that such order be made. *Francis* v. *McNeal*, 228 U. S. 695, 33 Sup. Ct. 701, affirming 186 Fed. 481 (C. C. A. 3d Cir.).

The Supreme Court settles this controverted point in accordance with the weight of authority of the lower federal courts. *In re Meyer*, 98 Fed. 976